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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/672,053 | 09/26/2003 | Arnold R. Leiboff | 461.1005 | 7183 |

22846 7590 05/22/2007
BRIAN ROFFE, ESQ
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| EXAMINER |
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HILL, LAURA C

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| ART UNIT | PAPER NUMBER |
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3761

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| MAIL DATE | DELIVERY MODE |
|-----------|---------------|

05/22/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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| APPLICATION NO./ CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR / PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
|---------------------------------|-------------|---|---------------------|
| 10672053 | 9/26/2003 | LEIBOFF, ARNOLD R. | 461.1005 |

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EXAMINER

Laura C. Hill

ART UNIT

PAPER

3761

20070516

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/672,053

Applicant(s)

LEIBOFF, ARNOLD R.

Examiner

Laura C. Hill

Art Unit

3761

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 May 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1,5-8,10-17,40-42,44,66-68,78,81 and 85-95.
Claim(s) withdrawn from consideration: _____.


AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See attached "Response to After Final Arguments".
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

**TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER**



Response to After Final Arguments

Applicant's arguments filed 7 May 2007 have been fully considered but they are not persuasive.

In response to Applicant's argument that there was no previous election for figure 3 (see remarks pages 10-11), Applicant's election with traverse of Claims 82-84 in the reply filed on 7 May 2007 is acknowledged. This is not found persuasive because it is noted again this new election/restriction requirement was subsequent to newly submitted claims, which were different embodiments (see page 3 of the Final Office action dated 5 February 2007).

The requirement is still deemed proper and is therefore made FINAL.

In response to Applicant's argument that Bartholomew does not disclose or teach a sewing ring with a portion that projects rearward and outward from the body in connection with which it is arranged, with a rearward edge which extends rearward of a forward end of the notch, etc as required by Claim 78 (see Remarks pages 11-12), Examiner maintains that Bartholomew discloses portion of ring 17b that projects rearward and outward from the surface of the body (figure 1). Bartholomew also discloses rearward distally disposed edge extends rearward/behind forward proximally disposed end of notch formed by ring 17b. Nowhere in Claim 78 is the term "extend rearward" (lines 7-8) limited to being *angled* rearward in a non-perpendicular configuration.

In response to Applicant's argument that Bartholomew does not disclose or teach ridge 17b which is circular as required by Claim 1 (see Remarks pages 12-13),

Examiner would like to point out that a "circular" ridge does not inherently means it extends over the circumference of the body but rather given its broadest reasonable interpretation could include circular non-linear curves such as the ridge 17b of Bartholomew (figure 1).

In response to Applicant's argument that the nib 19 of Bartholomew is not a "sheath" (see Remarks page 13), since Applicant has not set forth the term "sheath" with reasonable clarity, deliberateness, and precision, the term has been given its plain meaning consistent with MPEP 2111.01 and thus nib 19 meets the claim.

Claim Amendments

The amendments to Claim 87 filed 7 May 2007 are entered since they do not change the scope of the claim and doesn't raise a new issue.

Drawings

All objections to the drawings have been removed in view of Applicant's amendments submitted 7 May 2007.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Hill whose telephone number is 571-272-7137. The examiner can normally be reached on Monday through Friday (hours vary).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Laura C Hill
Examiner
Art Unit 3761

LCH



TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

